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The Solicitors' Journal and Reporter.

LONDON, MARCH 2, 1895.

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CURRENT TOPICS.

THE PROLONGED absence of Mr. Justice CHITTY, although the source of some inconvenience to the suitors who would have come before him during the past week, will not wholly put a stop to his business, as Mr. Justice NORTH was to hear on Friday any pressing motions in cases in Mr. Justice CHITTY's list. Other matters stand over for the present, and it is sincerely to be hoped that the learned judge will soon be able to return to work.

IT IS ANNOUNCED that Lord Justice KAY has so far recovered from his recent severe illness that he is able to leave town for his country house in Norfolk. He will not return to court during the present sittings, but is expected to resume his seat after Easter.

MR. JUSTICE MATHEW was announced to sit at the Royal Courts of Justice on Friday, the 1st of March, to hear summonses in commercial causes. These include applications to transfer commercial actions from the general lists in London and the country and also applications for directions and otherwise. There are already about thirty of these summonses set down for hearing before Mr. Justice MATHEW, and from these summonses will be compiled the separate list of commercial causes to be tried. It is not expected, however, that these cases can be ready for trial in less than a fortnight from the present time at the earliest. They will be tried either before a judge alone, or by a judge and jury, as the parties may elect. When necessary, the Lord Chief Justice of England and Mr. Justice COLLINS will assist in the disposal of commercial business, but at present it is considered that Mr. Justice MATHEW will be able to cope with the work alone.

1895
BY SECTION 12 of the Railway and Canal Traffic Act, 1894, the Railway Commissioners, in cases where they have jurisdiction to hear and determine any matter, may, in addition to or in substitution for any other relief, award to any complaining party who is aggrieved such damages as they may find him to have sustained. Section 1 (5) of the Railway and Canal Traffic Act, 1894, provides that the above section shall apply in the case of complaints under the later Act of increase of rates or charges since the 31st of December, 1892, but the period of six months from the passing of the Act—that is, from the 25th of August, 1894—is inserted as the limit within which complaint must be made to the commissioners, with power, however, for the Board of Trade to extend the period of six months with respect to any complaints made to them during that period. Under this power the Board of Trade have made an order, dated the 22nd of February, extending the period of six months with respect to all complaints made to them during that period for a further period of three months from the date of the order, or for such further time as the Board of Trade may hereafter allow.

AT A MEETING of the Rule Committee, held on the 25th of February, the rules under section 10 of the Finance Act, 1894,

regulating proceedings in appeals, which were published as urgent on the 14th of January, were confirmed. The committee also confirmed the rule under the Local Government Act, 1894, relating to election petitions, which was published as urgent on the same date.

WE PRINT elsewhere the new rules of the Supreme Court as to costs of originating summonses and consolidation of Chancery Funds Orders, drafts of which were published in December last. We print also rules regulating proceedings in county courts under the Finance Act, 1894, similar to those made for the Supreme Court.

THE LAND TRANSFER Bill, which the Lord Chancellor has introduced and which has been read a first time in the House of Lords, is practically the same measure as the Bill of last year. The leading provision is contained in section 1, according to which the Queen may "by Order in Council declare, as respects any district defined in the order, that, on and after a day specified in the order, registration of title to land is to be compulsory on sale, and thereupon a person shall not, under any conveyance on sale executed on or after the day so specified, acquire the legal estate in any freehold land in the district so defined unless or until he is registered as proprietor of the land." Clauses 2 and 3 repeat the former clauses as to the insurance fund and compensation. In clause 4 a slight alteration has been made by the insertion in sub-clause 1 (b) of the words "except where the sale thereof [i.e., of the principal mansion-house] is permitted by the settlement," the effect being to exclude that case from the provision that the principal mansion-house (if any) shall not be transferred by the registered proprietor without the consent of the trustees of the settlement or an order of the court. Clauses 5 to 11, dealing with transmission on death, are the same as before, save for a change in clause 11 rendered necessary by the Finance Act, 1894. It now runs: "Nothing in this Act shall affect any duty payable in respect of real estate, or impose on real estate any duty payable in respect of personal estate." Clause 14 repeats the clause as to deposit certificates which was added to last year's Bill for the purpose of enabling registered proprietors of land to give a security to bankers and others without creating a registered charge or entering a caveat. By section 83 of the Land Transfer Act, 1875, it is provided that no alteration shall be made in the registered description of land except under the order of the court or by way of explanation. A new clause in the present Bill—clause 19—provides that the power thus given to the court may be exercised by the registrar subject to an appeal to the court. Clause 20 repeats the former clause providing that general rules may be made under section 111 of the Land Transfer Act, 1875, for carrying this Act into effect, and in particular for carrying out the provisions of the Act with respect to compulsory registration, and for applying it to leasehold land and to grants of leases, but there is introduced a new proviso that "nothing in the rules under the said section shall extend to allow the inspection of any entry in the register with respect to land, except by or under the authority of some person interested in the land or charge to which the entry refers."

THE LORD CHANCELLOR'S Bill to amend the Law of Inheritance to Real Property, which has been read a first time in the House of Lords, is almost identical with the Bill of last year. The only change appears to be the insertion of a provision in clause 1 that nothing in the section shall affect the Intestates Act, 1890. The Bill provides that, "on the death of a person intestate as to any real estate, that real estate shall be divisible among the same persons as if it were personal estate as to which he had died intestate." It provides also for the abolition of (a) all existing modes, rules, and canons of descent, and of devolution by special occupancy, or otherwise, of real estate, whether operating by the general law or by the custom of any county, locality, or manor, or otherwise howsoever; (b) tenancy by the curtesy and every other estate and interest by custom or

otherwise of the husband in the real estate as to which his wife dies intestate; and (c) dower and freebench and every other estate and interest by custom or otherwise of a wife in the real estate as to which her husband dies intestate: with a proviso giving a husband or wife married before the passing of the Act an option to take his or her interest under the present law instead of the interest conferred by the section. When the Bill was introduced last year we pointed out that the proposal for dividing the real estate among the persons entitled to the personal estate, without any machinery for securing division, must, if carried into effect, result, in the majority of cases, in a partition action.

CASES UNDER the "slip" order (ord. 28, r. 11) are so constantly occurring, and so often reported, that it is advisable to draw the attention of our readers to the recent decision of the Court of Appeal in *Preston Banking Co. v. Allsup* (43 W. R. 231; 1895, 1 Ch. 141), which is a case of some importance on this branch of the practice of the court, so far as it lays down the general principles upon which the court has jurisdiction to alter its own orders. In *Re St. Nazaire Co.* (27 W. R. 854, 12 Ch. D. 88) JESSEL, M.R., laid down the general rule that, since the Judicature Acts whereby a Court of Appeal was established, the court has no jurisdiction to alter its order when once such order has been perfected, and this rule was followed with approval by the Court of Appeal in *Re Suffield & Watts* (36 W. R. 584, 20 Q. B. D. 693). In the case, however, of *Re Swire* (33 W. R. 785, 30 Ch. D. 239) the same court established an important exception to the effect that, where the order, though passed and entered, does not express the real order, the court has inherent jurisdiction to make the order conform to the actual decision pronounced, and the court does not seem to have attributed to the Judicature Acts quite so revolutionary an effect as was suggested by JESSEL, M.R., in the case of *Re St. Nazaire Co.*, and derived their power to vary in that case quite apart from a construction of the rules. But a question of greater difficulty arises when the order on the face of it represents the order pronounced, but was itself based upon some misrepresentation of fact. In *Stammar v. Evans* (35 W. R. 286, 34 Ch. D. 470) NORTH, J., varied his own order on the ground that it was made on the footing of a representation which was silent as to material information, such as if given would have prevented the order from being made in the shape in which it was made. It is true that *Re St. Nazaire Co.* and *Re Suffield & Watts* were not cited, and A. L. SMITH, L.J., has, in the case we are considering, thrown doubt on the decision. But in *Barker v. Purvis* (W. N., 1887, p. 1, 56 L. T. 131) the Court of Appeal allowed the correction of an order which had been obtained by a misrepresentation of fact in a material particular, on the ground that the mistake "arose from an accidental slip" within the meaning of ord. 28, r. 11, and that such slip was caused by a misstatement of the defendant. This last case does not appear to have been cited in *Preston Banking Co. v. Allsup*, although analogous in principle so far as in both cases the orders were founded upon a mistake in the facts. In order to reconcile the two decisions the proposition should perhaps be stated thus: "An order which represents the decision of the court cannot be varied on the ground that it was based upon a misrepresentation of fact, unless such misrepresentation be an 'accidental slip' within the meaning of the rules," but even thus some sort of definition of what is a "slip" seems to be required.

AN INTERESTING decision on the effect of general words in a settlement has been given in the case of *Anderson v. Anderson*. The plaintiff was a widow, and, by a post-nuptial settlement dated in 1886, her husband assigned to trustees a leasehold messuage and premises upon the trusts of the settlement. The messuage and premises were described as No. 43, Wimpole-street, and as including the coach-house and stables belonging thereto. By the settlement the husband also assigned to trustees all and singular the household furniture, plate, linen, china, glass, and tenant's fixtures, wines, spirits, and other consumable stores, and other goods, chattels, and effects which might, during the joint lives of the husband and wife, be brought into or upon the premises, to hold on the trusts of the settlement. The trusts

were to permit the plaintiff to have the occupation, use, and enjoyment of the trust premises during the joint lives of herself and her husband for her separate use, and after the death of either to convey and assign the trust premises to the survivor absolutely. The settlor died in 1894, and the plaintiff claimed to be entitled under the settlement to the horses, carriages, harness, and stable furniture in the coach-house and stables at the death of her husband. The case depended on the effect to be given to the words "other goods, chattels, and effects," and, in opposition to the plaintiff's claim, it was urged that the doctrine of *ejusdem generis* applied, and that they ought to be restricted by the preceding enumeration. On the other hand, the natural meaning of the words was large enough to include the property in question, and the modern tendency at any rate, even if this has not always been the rule, is to adopt the natural meaning unless there is good ground for restricting it. As was said by Lord ELDON, C., in a passage from *Church v. Mundy* (15 Ves. 396), quoted by Lord HALSBURY, "The best rule of construction is that which takes the words to comprehend a subject that falls within their usual sense, unless there is something like declaration plain to the contrary." This principle was followed by KNIGHT BRUCE, V.C., in construing the words "goods, chattels, and effects" in *Parker v. Marchant* (1 Y. & C. C. C. 290), and it has now been followed also by the Court of Appeal in *Anderson v. Anderson*. It seems, moreover, that the plaintiff's contention was assisted by the circumstance that the assignment of the leasehold premises included the coach-house and stables. It was reasonable that she should have also the chattels suitable for the occupation of this part of the premises. Hence the Court of Appeal affirmed the decision of WRIGHT, J., declaring the widow entitled to the property in dispute.

WE FEAR there are few friendly societies which would have a balance of £1,250 after satisfying all possible claims. Such, however, was the condition of the Helston Equitable Annuity Society, a society formed to provide annuities for the widows of deceased members. The members and widows alike being all dead, the trustees found themselves with a balance of £1,250. This has proved a veritable white elephant in their hands. They did not claim it themselves, and yet no one else could make out a satisfactory title. The action of *Cunnack v. Edwards* (reported elsewhere) was the result. As usual in these cases the Attorney-General appeared. His first contention, that the society was a charity, met with small encouragement, but his second contention, that the *cestuis que trustent*, if any, were unascertainable, and that the fund went as *bona vacantia*, caused judgment to be reserved. CHITTY, J., however, held that there was a resulting trust in favour of the members or their representatives in shares in proportion to the amount of their contributions, and he directed an inquiry. As there were several hundred members the fund will no doubt go in costs. It is difficult to see how any other result could have been arrived at, but it is, nevertheless, a matter of regret that thrift should be so discouraged. Perhaps the most curious thing about the whole matter is that Cornishmen should have allowed a thoroughly solvent society to die out in this way, leaving its ample funds to be dissipated into thin air by legal expenses.

THE 153RD SECTION of the County Courts Act, 1888 (51 & 52 Vict. c. 43), empowers a county court judge, if satisfied that the defendant, in any action or matter, is unable, "from sickness or other sufficient cause," to pay and discharge the debt or damages recovered against him, to suspend execution for such time, and on such terms, as the judge shall think fit. In the recent case of *Attenborough v. Henschel* a Queen's Bench Divisional Court (WILLS and WRIGHT, JJ.) held that mere inability on the part of a defendant to pay was no sufficient ground in itself for exercising this suspensory power, unless, indeed, such inability was the result or consequence of some external cause. According to this decision, the accuracy of which we do not wish to impugn, the words "or other sufficient cause," which occur in section 153, must receive, not a wide construction, but one limited by the preceding word "sickness,"

in accordance with what may be termed the doctrine of *ejusdem generis*, which is so often appealed to in cases of doubtful interpretation.

THE ASSOCIATED PROVINCIAL LAW SOCIETIES.

A VERY interesting pamphlet* on the history and work of the Associated Provincial Law Societies has just been published by Mr. THOMAS MARSHALL, of Leeds, the honorary secretary, and a perusal of it shows how active and useful the association has been during the twenty-one years of its existence. The primary object of the association, as stated by Mr. MARSHALL, is to enable the influence of the large body of solicitors dispersed throughout the country to be united and brought to bear on objects of professional importance, and, as he further remarks, experience has shown that this can only be done (1) by strengthening the law societies which happen to exist, and by forming them where they do not exist, and (2) by bringing the collective force of the law societies so created into operation. Solicitors "must act in concert if they are to act with all the effect which they are capable of exercising."

It was this need of concerted action which led to the formation of the association. The need was first felt, or rather joint action was first taken, in respect of the district registry clauses of the Judicature Act of 1873, which were seriously threatened in Parliament. In March of that year representatives of the Birmingham, Liverpool, Manchester, Newcastle, and Leeds Law Societies met at Manchester, and observations on the clauses, and amendments to them, were prepared and issued by the five societies. Subsequently other societies joined the movement, and active measures were taken to impress upon the Legislature the expediency of allowing the preliminary steps in an action to be conducted in the country. After the lapse of twenty years, observes Mr. MARSHALL, it is not easy to realize either the extent of the opposition to the district registry clauses, or the trouble involved in meeting it. It was due to the united efforts of many provincial law societies that prominence and currency were given to the reasons which justified so considerable a change.

The Manchester meeting of the 5th of March, 1873, was the first actual step in the direction of united action by the law societies, but it was not until the 30th of April, 1874, that the association was constituted under its present title, and its rules formally accepted. According to these any law society established at any place in England (except London) is entitled to membership, and the meetings of the association are composed of representatives of members. During the period that has elapsed since 1874 the association has steadily increased its membership, and it now comprises forty-nine of the sixty-three law societies at present existing. A list of the members is given at the commencement of Mr. MARSHALL's pamphlet, and it shows that the advantages of membership in the association are recognized by all the largest and most important law societies in the kingdom. As Mr. MARSHALL observes, these facts alone go far to prove the practical usefulness of the association.

Naturally the chief matter with which the association has been concerned has been the question of land transfer. Just at the time when the association was coming into existence, Lord SELBORNE was seeking to make registration compulsory by his Land Titles and Transfer Bill of 1873. This Bill, in consequence of the pressure of other business in Parliament, was not proceeded with, but a Bill on the same lines was introduced in the following year by Lord CAIRNS, who, upon the change of Government, had become Lord Chancellor. By this Bill it was proposed that for three years there should be no obligation to register, but after that period registration should be obligatory upon every sale, the penalty for omitting to register being that the purchaser would only get an equitable title. Action was at once taken on the Bill by the provincial societies, and a meeting of deputations of the law societies of Manchester, Liverpool, Newcastle, Leeds, Gloucestershire, Bolton, and Preston was held in Manchester, when the

* The Associated Provincial Law Societies. Their Constitution and Work (1873-1894). By THOMAS MARSHALL, Honorary Secretary, Leeds. Printed by McCorquodale & Co. (Limited).

Bill was fully discussed and resolutions were adopted, including a resolution condemning compulsory registration until experience had shewn that the system would work satisfactorily. Measures were taken to obtain the co-operation of all the provincial law societies, and on the 27th of May a meeting was held at the Law Institution, Chancery-lane, under the presidency of Mr. DEES, of Newcastle, at which the representatives of fourteen law societies were present. A deputation was appointed to wait upon the Lord Chancellor and the Attorney-General. Subsequently the Lord Chancellor announced that, in consequence of the representations which had been made to him, he proposed to limit the compulsory clauses of the Bill to transactions in which the purchase-money exceeded £300. Otherwise he adhered to the principle of compulsion, and amendments drawn up on behalf of the associated societies were placed on the notice paper of the House of Commons. However, on the 27th of July the order for going into Committee was discharged and the Bill withdrawn. The Bill, as reintroduced in the following year, abandoned the principle of compulsory registration, and although some of its provisions—especially the omission of a clause enabling land to be removed from the register—were objected to, the law societies offered no opposition to the Bill as altered. They were content with its voluntary character, and willing that the test of experience should be applied to it. It became law as the Land Transfer Act, 1875, and its subsequent failure to convert landowners to the system of registration of title is matter of notoriety.

The question was reopened in 1878, when Mr. OSBORNE MORGAN obtained the appointment of a Committee of the House of Commons to consider it, and the societies met in June of that year and determined to offer evidence before the Committee. Mr. DEES and Mr. BATESON-WOOD, of Manchester, were accordingly examined as witnesses. The Committee reported in 1879, and then the matter slumbered till 1887, when, without any justification from the report, Lord HALSBURY, who was then Lord Chancellor, reintroduced the principle of compulsion in his Bill "to further simplify titles and facilitate the transfer of land in England." This Bill at once engaged the attention of the Association of Provincial Law Societies, and it was considered and reported upon at the annual meeting held on the 12th of May. Among the points insisted upon in opposition to the Bill were the impossibility of fully criticizing the scheme in the absence of the rules and orders on which its working would depend; the injustice of compelling landowners to do for their own benefit that which they were unwilling to do voluntarily; the inexpediency of checking small dealings with land; and the difficulty under the new system of borrowing money on deposit of deeds or by any analogous process. It is unnecessary to follow Mr. MARSHALL further in his account of the opposition which the association has offered to the Bill upon its re-introduction in subsequent years. Although both Lord HALSBURY and Lord HERSCHELL have adhered to the principle of compulsion, the opinions of the provincial law societies have become increasingly adverse to it. In 1887, out of thirty-four law societies whose opinions were ascertained, twenty-seven were opposed to compulsory registration, and seven were in favour of it. At the conference between the Council of the Incorporated Law Society and representatives of the provincial law societies, held on the 1st and 11th of May, 1894, a resolution that the opposition to the Land Transfer Bill be continued was carried by a majority of twenty-eight societies to three. It may confidently be expected that the opposition to the Bill of the present session will be maintained by the provincial law societies as vigorously as in previous years.

A subject of more recent introduction is the policy of creating a public trustee. Upon this, too, the association has displayed commendable activity. The progress made with the Public Trustee Bill in the session of 1891 made it necessary to summon a meeting in London on the 5th of March, and representatives of no less than twenty-five of the members of the association came up to London at short notice, and on the day following the meeting waited, together with the president and vice-president of the Incorporated Law Society, on the Lord Chancellor and the Chancellor of the Exchequer, and laid their views before them. Both Ministers seemed fully bent on proceeding with the measure, and made light of the objections urged, although the

Chancellor of the Exchequer (Mr. GOSCHEN) said that the Government would gladly consider any proposed amendments when the Bill went into committee. Amendments were prepared by the Council of the Incorporated Law Society, and adopted by the Association of Provincial Law Societies at their annual meeting on the 2nd of April. But serious opposition was threatened in the House of Commons, and the Bill was allowed to drop. At the annual meeting of the following year the associated societies, by an almost unanimous vote, expressed themselves as opposed to the principle involved in any Bill for the establishment of a public trustee. A similar opinion will probably determine the action of the association upon any further attempt to press the scheme forward.

We have selected the two subjects of land transfer and the creation of a public trustee as illustrating the practical usefulness of the Association of Provincial Law Societies, but it must not be supposed that its activity is confined to these matters. Mr. MARSHALL'S record of the work of the association in successive years shews that it has had an important influence on numerous questions of practice and subjects of legislation. Among these may be mentioned the proposals for the amendment of the bankruptcy law, culminating in the Act of 1883; continuous sittings for the trial of causes at populous local centres; the restriction of district registrarships to solicitors; the drafting of the order under the Solicitors' Remuneration Act, 1881; the arrangement of business in the Chancery Division; the right of various public officials to act as advocates before justices; and the question of a solicitor-mortgagee's profit costs. On these and many other matters useful work has been done by the association, and Mr. MARSHALL has done good service in giving so clear and succinct an account of it. We trust that the few outstanding law societies will soon see the advantage of joining the association, and thus complete its constitution as a body entitled to speak with authority on behalf of the whole profession outside London.

JUDGMENTS BY CONSENT.

III.

(b) *The liability of counsel and solicitor to the client.*—It has been suggested in several cases that counsel may be held liable to an action if he compromises an action contrary to express instructions and if he acts fraudulently: *Bradish v. Gee* (1754, Amb. 229); and in *Harrison v. Rumsey* (1752, 2 Ves. sen. 488) Lord HARDWICKE said, "If they could prove collusion on the counsel it would be a different thing," mentioning a case in the House of Lords, who desired the party to bring an action against the counsel. *Swinfen v. Chelmsford* (1860, 8 W. R. 545, 5 H. & N. 890) was an action brought by Mrs. Swinfen against her counsel, who had compromised *Swinfen v. Swinfen* (for particulars see *ante*, p. 279) against her express instructions. The court agreed that the consent given in *Swinfen v. Swinfen* was a nullity, as dealing with matters outside the action, but that, it being a nullity, no legal damage had resulted, and that, therefore, counsel was not liable. POLLOCK, C.B., said (p. 921), "A counsel is not subject to an action for calling or not calling a particular witness, or for putting or omitting to put a particular question, or for honestly taking a view of the case which may turn out to be quite erroneous. . . . We think he has not, by virtue of his retainer in the suit, any power over matters that are collateral to it."

An action, however, against a solicitor has not infrequently been successful, and this for the reason that his authority to compromise is more limited, for he must not only regard his instructions, but must act *bona fide*, reasonably, and skillfully. If damage results from contrary conduct he is liable to an action. "If an attorney exceed his authority, and his client be thereby prejudiced, the attorney is liable to make satisfaction to the client": *R. v. Adlington* (1755, Sayer, 259). So Lord MANSFIELD, held in *Filmer v. Delber* (1811, 3 Taunt. 486, 12 R. R. 688) that the proper remedy for consent given against instructions to the attorney was by action against him, and not by setting aside the order: see *Buller v. Knight* (1867, 15 W. R. 407, L. R. 2 Ex. 109).

No doubt it is usually the duty of an attorney to communicate to his client the offer of a compromise by the other side, and if, omitting to do this and take instructions, he goes on with the action and is deprived of his costs, he cannot recover them; but it is for the client to prove that he was not communicated with: *Sill v. Thomas* (1839, 8 C. & P. 762).

In the absence of contrary instructions a compromise may be entered into by solicitors, provided that they act in a skilful, careful, and proper manner: *Chown v. Parrott* (1863, 11 W. R. 668, 14 C. B. N. S. 74); and they may agree to refer to arbitration: *Faciell v. Eastern Counties, &c.* (1848, 2 Exch. 344). Even after judgment, if the client still communicates with him, so that it is a fair inference that the former relationship continues, the solicitor may compromise, but at his own risk if he acts in breach of instructions: *Butler v. Knight* (1867, 15 W. R. 407, L. R. 2 Ex. 109). Even an attorney's managing clerk, acting in the conduct of the action, has authority to compromise it, provided he act *bond fide* and not against express instructions. He is "the general agent of the client in all matters which may reasonably be expected to arise for decision in the cause": *per MONTAGUE SMITH* in *Prestwick v. Poley* (1865, 13 W. R. 753, 18 C. B. N. S. 806). While it is not settled that he may in all cases agree to accept goods for money, it was held in this case that it was reasonable of him to agree to the return of a piano, the price of which was sued for, and to payment of agreed costs by instalments. But where a solicitor agrees to a compromise against instructions, he is liable to an action, though it be but for nominal damages, and the advice of counsel does not protect him. "An attorney retained to conduct a cause is entitled, in the exercise of his discretion, to enter into a compromise if he does so reasonably, skilfully, and *bond fide* . . . provided always that his client has given him no express instructions to the contrary": *Fray v. Voules* (1859, 7 W. R. 446, 1 E. & E. 839).

2. *Grounds of relief.*—It may be stated broadly that the two chief grounds are *fraud and mistake*. Here we find ourselves on familiar soil, for these are the grounds on which equity has ever relieved against the performance of contracts, and it will not need reference to many cases in order to elucidate theory and practice.

Mistake.—Without going too far back we may mention first the case of *Mullins v. Howell* (1879, 11 Ch. D. 763), where JESSEL, M.R., refused to enforce an order, embodying an undertaking, part of which was given by the defendant through inadvertence. He further said that the court has large jurisdiction over its own orders, and can discharge consent orders made by mistake of one side only; and that there is a larger discretion in respect of interlocutory than of final orders. The latter part of this decision, however, must be taken in connection with *Harvey v. Croydon Union, &c.* (*ante*, p. 280).

In *Lewis v. Lewis* (1890, 39 W. R. 75, 45 Ch. D. 281) a motion was made for leave to withdraw consent, a somewhat peculiar form of motion. The consent order had been agreed to by counsel in supposed effectuation of a consent given by the defendant's to the plaintiff's solicitors as to the form of an injunction against the use of a trade name, to which the defendant was prepared to submit. The consent order was set aside by KEKEWICH, J., who reserved the costs. *Matthews v. Munster* (1887, 36 W. R. 178, 20 Q. B. D. 144) was distinguished on the ground that here there were special instructions communicated to the other side, whereas that case turned on the general powers of counsel. *Lewis v. Lewis* was not unlike *Furnival v. Bogle* (1827, 4 Russ. 142), where LYNCHBURST, L.C., set aside an order made by consent of the plaintiff's counsel, who was not aware that the plaintiff had twice rejected a similar offer made by the defendant: see *Holt v. Jesse* (1876, 24 W. R. 879, 3 Ch. D., at p. 184). Again, in *Moore v. Peachey* (1892, 66 L. T. N. S. 198) the Divisional Court set aside, on the ground of mutual mistake, a garnishee order which had been made absolute.

However, it is not every mistake that will form a good reason for setting aside an order, and, in particular, the fact that one or both of the consenting parties have mistaken their rights, while aware of the facts from which they arise, will not invalidate a consent order: *Howitt v. Hull, &c., Building Society* (1887, 4 Times Rep. 35 (C. A.)). Thus a mistake by the consenting

counsel in thinking that the judge is rightly construing a document is not such a mistake as the court will relieve against: *West Devon Great Consols Mine* (1888, 36 W. R. 342, 38 Ch. D. 51 (C. A.)); nor is the omission by plaintiff to ascertain of whom the defendant partnership consists, and in consequence his signing judgment by consent against one partner only: *Munster v. Cox* (1885, 34 W. R. 461, 10 App. Cas. 680); nor is the forgetting by the defendant of facts which would have induced him to withhold his consent: *Attorney-General v. Tomline* (1877, 26 W. R. 188, 7 Ch. D. 388), see *Cookes v. Cookes* (W. N., 1866, p. 86); nor is the subsequent discovery of facts forming a fresh ground of defence: *Elsas v. Williams* (1884, 52 L. T. N. S. 39), though this decision does not seem quite in keeping with the cases where relief has been granted for mistake of fact: see *The Monarch* (1886, 35 W. R. 292, 12 P. D. 5), where HANFORD, J., said, "A compromise made under a mistake by one creditor as to something done by others does not bind him."

REVIEWS.

BOOKS RECEIVED.

The Bills of Sale Acts, with an Epitome of the Law as Affected by the Acts. By HERBERT REED, Q.C. Tenth Edition. Waterlow Bros. & Layton (Limited).

NEW ORDERS, &c.

RULES OF THE SUPREME COURT.

APPEALS UNDER THE FINANCE ACT, 1894, s. 10.

The Rules of the Supreme Court regulating the proceedings in appeals under the Finance Act, 1894, s. 10, which were signed and certified as urgent on the 14th of January, 1895, were confirmed on the 25th ult. The rules are printed *ante*, p. 199.

ELECTION PETITIONS UNDER THE LOCAL GOVERNMENT ACT, 1894.

The Rule of the Supreme Court under the Local Government Act, 1894, which was signed and certified as urgent on the 14th of January, 1895, has been confirmed. The rule is printed *ante*, p. 200.

COSTS OF ORIGINATING SUMMONS.

The following additions to Appendix N of the Rules of the Supreme Court, 1883, shall be made:—

72A. (Instructions.) For statement of facts, such fee may be allowed as the taxing officer shall think fit, having regard to all the circumstances of the case.

82A. (Instructions.) For brief on hearing of an originating summons, or hearing of a summons under section 10 of the Companies (Winding-up) Act, 1890:—Lower scale, £1 1s.; higher scale, £2 2s.

130. (Perusal.) After "of special case" insert "or statement of facts."

CHANCERY FUNDS ORDERS, CONSOLIDATION.

1. The Chancery Funds Amended Orders, 1874 (except so far as they revoke or abrogate any previous Order) and Order XXII., Rule 12, are hereby revoked.

ORDER XXII. Rule 12.

2. In the Chancery Division a person making a lodgment under an Order shall forthwith give notice thereof, by prepaid letter through the post, to the solicitor of the person on whose application the Order was made, or to such person if he has no solicitor, or if the Order was made on his own application to the solicitors of the other parties appearing thereon, or such other parties if they have no solicitors.

A person making a lodgment on request, other than a lodgment under the Trustee Act, 1893, shall forthwith give notice thereof in like manner to the solicitor of the other parties to the cause, or to such parties if they have no solicitor, or, if such lodgment is made in a matter, to the persons interested (if known), or their solicitors (if any), stating in each case what the money or securities so lodged represent.

ORDER XXII. Rule 12A.

3. Every petition or summons for dealing with money or securities in Court, chargeable with any duty payable to the Revenue, or the

dividends on such securities, shall contain a statement whether such duty has or has not been paid.

ORDER XXII. Rule 12B.

4. Every petition or summons for dealing with funds which have been placed in the list of dormant funds, shall contain a statement that such funds have not been dealt with for 15 years or upwards, and where such funds shall amount to, or exceed in value, £500, a copy of such petition or summons shall, unless the Court or Judge shall otherwise direct, be served on the Official Solicitor of the Court.

ORDER LIV.B. Rule 4A.

5. Applications to deal with funds lodged in Court under the Act, shall be intitled in the same manner as the affidavit or request on which the funds were lodged. All other applications under the Act, not made in any pending cause or matter, shall be intitled in the matter of the trust (described so as to be distinguishable) and of the Act. Every petition or summons for a vesting order, or the appointment of a person to convey, shall state the section or sections of the Act under which it is proposed that the Order should be made.

ORDER LV. Rule 13A.

6. Add to sub-section (c) of Order LV., Rule 13A., the words "or the suing for or recovering any chose in action," and in sub-section (d) of the same Order substitute for the words "where the money or securities in Court does not or do not exceed £1,000 or £1,000 nominal value," the words "coming within the provisions of Rule 2 of this Order."

ORDER LXI. Rule 19.

7. In Order LXI., Rule 19, after the word "petition" insert the word "affidavit," and after the word "presented" the word "filed," and add at the end "or a note indicating that the cause was commenced prior to 2nd November, 1852, and the correctness of such reference to the record may be required to be authenticated by the seal of the Central Office."

ORDER LXI. Rule 30.

8. Add at the end of the Rule "but no effects of the suitors consisting of jewels or plate or other articles of a like nature or negotiable securities are to be so deposited."

COUNTY COURT RULES.

RULES AS TO PROCEEDINGS IN APPEALS UNDER THE FINANCE ACT, 1894, SECTION 10.

1. Any aggrieved person withing the meaning of section 10, sub-section (1), of the Finance Act, 1894, who desires to appeal to the Court under sub-section (5) in any of the cases mentioned in the said sub-section (1) shall, within one month from the date of the notification to him or his solicitor of the decision or claim of the Commissioners, deliver to them a written statement of the grounds of such appeal.

The statement shall state specifically the several grounds upon which the appellant contends that the decision or claim of the Commissioners was erroneous, and if he contends that the value put upon any property by the Commissioners is excessive, he shall therein identify such property and state the value which he contends should be put upon the same.

2. The Commissioners shall, within a month from the delivery to them of the statement of the grounds of appeal, notify to the appellant or his solicitor whether they have withdrawn the decision or claim appealed against or have determined to maintain the same, either in whole or in part.

3. At any time thereafter not exceeding one month from the date of the notification by the Commissioners of their determination to maintain their decision or claim either in whole or in part, the appellant may proceed with his appeal by filing a petition.

4. Such petition shall be intitled "In the matter of the Finance Act, 1894, and in the matter of the Estate Duty on the property passing on the death of late of deceased," and a copy thereof, with a notice of the day and hour on which the petition will be heard, shall be served on the Commissioners in accordance with Rules 2 and 3 of Order XXXVIII.

5. Subject to the provisions of these Rules the appellant shall not in his petition state or at the hearing be allowed to rely upon any grounds of appeal not specifically set forth in the statement of the grounds of appeal.

6. Unless by consent, or otherwise ordered, only oral evidence shall be admitted at the hearing.

7. The Crown shall have the same right as an ordinary suitor of administering interrogatories and of obtaining discovery and inspection of documents.

8. The Judge may, at any time before or at the hearing, allow the

appellant to amend his petition, upon such terms as the Judge may think right.

9. Applications for leave to bring an appeal without payment, or on part payment only of the duty, under the provisions of sub-section (4) of section 10 of the Finance Act, 1894, shall be by summons before the Judge at Chambers, and the appellant shall deliver to the Commissioners, with the summons, a copy of any affidavit which the appellant intends to use at the hearing of the summons.

10. Order XXXVIII., Rule 7. Where the Judge makes an order upon a petition under this Order the Registrar shall, as soon thereafter as conveniently may be, draw up, seal, and file such order.

TRANSFER OF ACTIONS.

ORDERS OF COURT.

Tuesday, the 19th day of February, 1895.

Whereas, from the present state of the business before Mr. Justice Chitty, Mr. Justice North, Mr. Justice Stirling, and Mr. Justice Romer respectively, it is expedient that a portion of the causes assigned to Mr. Justice Chitty, Mr. Justice North, and Mr. Justice Stirling should, for the purpose only of hearing or of trial, be transferred to Mr. Justice Romer; now I, the Right Honourable Farrer, Baron Herschell, Lord High Chancellor of Great Britain, do hereby order that the several causes and matters set forth in the schedules hereto be accordingly transferred from the said Mr. Justice Chitty, Mr. Justice North, and Mr. Justice Stirling to Mr. Justice Romer, for the purpose only of hearing or of trial, and be marked in the Cause Books accordingly. And this Order is to be drawn up by the Registrar and set up in the several Offices of the Chancery Division of the High Court of Justice.

FIRST SCHEDULE.

From Mr. Justice CHITTY.

1894.

Wakefield v Flack 1894 W 2,371 Dec 13
In re Gibson Tordoff v Gibson 1893 G 1,482 Dec 14
Dunn v Dunn 1894 D 809 Dec 15
Hutchings v Williams 1893 H 681 Dec 19
Smith v Magniac 1894 S 2,170 Dec 20
Kensington Co-operative Stores Ltd v J Lyons & Co Ltd 1894 K 717 Dec 21
Whittham v Westminster Coal & Coke Co Ltd 1893 W 1,662 Dec 22
Read v Mayor 1894 R 1,827 Dec 24
Younger & Co Ltd v Vickers 1894 W 3,073 Dec 27
Thomas v Bomash 1894 T 1,362 Dec 31
Thomas v Timothy 1894 T 1,383 Dec 31
In re David Jones v Morgan 1894 D 350 Dec 31

1895.

Moehle's Barr Patente Gesellschaft & Co v Caspers 1893 M 3,143 Jan 4
Lees v Handsley 1894 L 2,853 Jan 4
Tatam v Boyd 1894 T 947 Jan 5
Farlow v Cooke the elder 1894 F 1,130 Jan 5
Grange v Bradley 1894 G 810 Jan 8
Claydon v Soanes 1894 C 3,924 Jan 8
Chipperfield v Carter, the elder 1894 C 337 Jan 9
Kidley v Stone 1894 K 144 Jan 9
Webster v Walter 1894 W 2,949 Jan 9
Dearberg v Letchford 1894 D 1,227 Jan 10
Piper v Beach 1894 P 1,194 Jan 16
Bulmer v Pickering 1894 B 3,262 Jan 17
Sheen v Diamond 1894 S 3,797 Jan 19
Gibb v Smith 1894 G 1,572 Jan 23
In re Pike Brownrigg v Pike 1894 P 3,087 Jan 28
In re Clark Brown v Clark 1894 C 2,190 Jan 28
Norman v Thomas 1894 N 1,465 Jan 29
Martin v Bergheim 1894 M 2,202 Jan 30
North Met Trams Co v London County Council 1894 N 1,164 Feb 2
Clarson v Alldritt 1894 C 3,182 Feb 4
Marks v Hollway 1894 M 3,435 Feb 7
In re Eyre McAndrew v Norris 1895 E 74 Feb 11
Kemp v Horton 1892 K 917 Feb 11

SECOND SCHEDULE.

From Mr Justice NORTH.

1894.

Yates v Lloyd 1893 Y 786 Nov 26
Cumings v Hardman 1894 C 2,628 Nov 26
White v Hay 1894 W 1,320 Nov 27
Beighton v Beighton 1894 B 3,251 Nov 29
Ingram v Elliott 1894 I 925 Nov 30

The Western & Brazilian Telegraph Co ld v Brazilian Submarine
Telegraph Co ld 1894 W 1,189 Dec 5
Smith v Wheeler 1894 S 2,766 Dec 7
Taylor v Denison 1894 T 207 Dec 12
Ford v Hiron 1894 F 931 Dec 13
The Froggatt's Electric Lighting Co ld v Dickson 1894 F 1,411
Dec 14
Slack v Slack 1894 S 2,470 Dec 19
Copeland v Bliss 1894 C 2,647 Jan 16
Dyke v Allman 1894 D 1,618 Dec 20
E Emmerson, the younger v Emmerson 1893 E 1,556 Same v
Same 1893 E 1,557 Dec 28
In re Turnbull Ivey v Hayman 1894 T 50 Dec 31
1895.

Birmingham Vinegar Brewery Co ld v Tomschitz & Co 1894 B
1,050 Jan 8
Shawe v Park 1894 S 513 Jan 11
Snook v Winter 1894 S 2,647 Jan 16
Beaumont v Hatton 1894 B 5,474 Jan 17
Harris v Mapleson 1894 H 3,805 Jan 18
Quilhampton v Peruvian Corpn ld 1893 Q 2,910 Jan 18
Burial Board for Parish of Putney v Balfour 1894 P 1,537
Jan 18
Smith v Mashiter 1894 S 1,657 Jan 22
Midland Ry Co v Gribble 1894 M 1,931 Jan 25
Cumberland Union Banking Co ld v Sweetapple's United Paper
Mills ld 1894 C 1,754 Jan 26
Soppit v Diplock 1894 S 4,087 Jan 26
Bird v Parslow 1894 B 5,627 Jan 26
Canliffe v Pearson 1894 C 4,307 Jan 28
Shoe Machinery Co ld v Cutlan 1893 S 4,076 Jan 29
Baker v Senior 1891 B 5,064 Jan 29
London & Midland Bank ld v Turner 1894 L 2,268 Jan 30
Goodall v Crossley 1894 G 1,368 Jan 30
Stainer v Local Board for Biddulph 1894 S 683 Jan 31
Coles v Hay 1894 C 2,865 Feb 1
Partington v Hartlepool's Pulp & Paper Co ld 1894 P 2,922
Feb 1

THIRD SCHEDULE.

From Mr JUSTICE STIRLING.

1894.

In re Garbutt Bashforth v Garbutt 1893 G 2,619 Nov 7

1895.

Garbutt v Bashforth (transferred from Q B Division, to be heard with
Bashforth v Garbutt) 1894 G 1,252 Jan 4

1894.

In re Campbell Bruce v Moore 1894 C 943 Nov 8
Verner v Frere 1894 V 65 Nov 9
Jenkins v Theophilus 1894 J 302 Nov 14
Musgrave v Burdett 1894 M 2,107 Nov 16
Capenhurst v Arton 1893 C 3,764 Nov 16
Betjemann v Betjemann 1894 B 2,248 Nov 16
In re Ashton Leveson v Barnard 1894 A 1,308 Nov 20
Edison-Bell Phonograph Corp, ld v Hough 1894 E 783 Nov 21
Watkins v Watkins 1894 W 2,324 Nov 21
Gosnell v Aerated Bread Co, ld 1894 G 1,436 Nov 22
Newton v Newton 1894 N 902 Nov 23
School Board for Langton v Norcliffe 1894 S 2,221 Nov 23
In re Silvester Midland Ry Co v Silvester 1894 S 3,128 Nov 30
Cooper v Pringle 1894 C 2,460 Dec 3
Tremain v Tremain 1894 T 1,035 Dec 5
Hastings (trading &c) v Smith 1894 H 2,374 Dec 6
Donaldson v Turner 1894 D 1,514 Dec 6
Tuson v Harris 1894 T 1,081 Dec 13
Crompton v Lester 1894 C 2,090 Dec 14
Viney v Binstead 1894 V 383 Dec 18
Bate v Moody 1894 B 3,365 Dec 18
Earl of Carnarvon v Brunt Bucknall & Co Same v Same (consolidated
by order June 11 1894) 1893 C 4,304 Dec 19

1895.

Robson v Smith 1894 R 1,267 Jan 3
In re Jones Robinson v Jerdein 1894 J 622 Jan 7
The New California ld v California Milling and Mining Co ld 1894
N 448 Jan 9
Bligh v Bawtree 1894 B 3,723 Jan 10
In re Kemp-Welch Aldridge v Kemp-Welch 1894 K 327 Jan 12
Simpson v Mayor Aldermen &c of the Borough of Godmanchester
1894 S 4,420 Jan 14

HERSCHELL, C.

Thursday, the 21st day of February, 1895.

I, the Right Honourable Farrer, Baron Herschell, Lord High Chan-

cellor of Great Britain, do hereby order that the action mentioned in the
Schedule hereto shall be transferred to the Honourable Mr. Justice
Vaughan Williams.

SCHEDULE.

Mr. Justice NORTH (1892-R-No. 376).

The Railway Debenture Trust ld v The Madrid and Portugal Direct
Railway (Avila and Salamanca) ld, and the Railway Share, Trust, and
Agency Co ld. HERSCHELL, C.

CASES OF THE WEEK.

Court of Appeal.

IN THE MATTER OF A BANKRUPTCY NOTICE—No. 1, 22nd February.

BANKRUPTCY—BANKRUPTCY NOTICE—"FINAL JUDGMENT"—ORDER IN
BANKRUPTCY SETTING ASIDE A SETTLEMENT—ORDER TO PAY COSTS—
BANKRUPTCY ACT, 1883 (46 & 47 VICT. c. 52), s. 4, SUB-SECTION
1 (g).

Appeal from the refusal of Mr. Registrar Brougham to give leave to
issue a bankruptcy notice. The official receiver, as the trustee of a bank-
rupt, moved under section 102 of the Bankruptcy Act, 1883, before
Vaughan Williams, J., for an order setting aside a deed executed by the
bankrupt of the assignment of a patent as being fraudulent and void as
against creditors, and the learned judge made an order setting aside the
deed and directing the assignee to pay the taxed costs of the motion. The
costs not being paid, the official receiver applied *ex parte* to the registrar
to issue a bankruptcy notice in respect thereof under section 4, sub-section
1 (g), of the Bankruptcy Act, 1883, but the registrar refused, upon the
ground that the order directing the payment of costs was not a "final
judgment" in an action, and therefore not within the sub-section. The
official receiver appealed, and contended that it was not necessary that
there should be a final judgment in an action to support a bankruptcy
notice. *Ex parte Chinery* (32 W. R. 469, 12 Q. B. D. 342), *Ex parte*
Whinney (13 Q. B. D. 476, 32 W. R. Dig. 11), *Ex parte Moore* (33 W. R.
438, 14 Q. B. D. 627), *Ex parte Dale* (41 W. R. 452; 1893, 1 Q. B. 199),
Ex parte Paterson (35 W. R. 735, 56 L. J. Q. B. 504) were referred to.

THE COURT (Lord Esher, M.R., and Lopes and Rigg, L.J.J.) dismissed
the appeal. Section 4, sub-section 1 (g), of the Bankruptcy Act, 1883,
being in the nature of a penal enactment, must be construed strictly,
and the authorities shewed that the words "final judgment" in that sub-
section meant a final judgment in an action.—COUNSEL, *Muir Mackenzie*,
Solicitor, S. R. Pollard.

[Reported by W. F. BARRY, Barrister-at-Law]

High Court—Chancery Division.

GUNNACK v. EDWARDS—Chitty, J., 8th and 9th May and 28th Novem-
ber, 1894; 20th February.

FRIENDLY SOCIETY—TRUSTS EXHAUSTED—UNEXPENDED FUNDS—CHARITY—
CY-PRES—BONA VACANTIA—RESULTING TRUST.

The Helston Equitable Annuity Society was founded in March, 1810,
for the purpose in its rules expressed of raising, by subscriptions, fines, and
forfeitures, a fund for the relief of the widows of its deceased members.
In April, 1830, the rules were revised, and the society subsequently con-
formed to the provisions of the Friendly Societies Act, 1829 (10 Geo. 4, c. 56).
The society consisted of ordinary and honorary members. The last
surviving ordinary member, one T. H. Edwards, through whom the
defendant claimed, died a widower in 1878, and the last known honorary
member, Sir Richard R. Vyvyan, died in 1879. On joining the society an
honorary member signed a declaration that his object in joining the
society was not that any widow of his should derive any benefit therefrom
(to which he altogether relinquished his right), but merely for the
encouragement of the society. The last annuitant died in 1892. The
defendant thereupon claimed the funds (about £1,250 New
Consols) as the representative of the last surviving ordinary member.
The Attorney-General claimed that (1) either the society was a
charity and the funds were applicable *cy-pres*; or (2) that the funds were
ownerless and went to the Crown as *bona vacantia*. It appeared that by
the rules of 1830 the trustees were from time to time to execute a deed
declaring the purpose for which any moneys of the society were laid out,
but no such deed had been executed nor had any steps been taken to wind
up the society. The trustees disclaimed any beneficial interest. The
charity point was argued on the 8th and 9th of May, 1894, *Re Clark's*
Trust (24 W. R. 233, 1 Ch. D. 497) being relied on against the Attorney-
General. The Attorney-General contended that a friendly society might
be a charity, and relied on the voluntary subscriptions of the honorary
members as constituting the present society one: *Paine v. Pattinson* (34
W. R. 361, 32 Ch. D. 154).

CHITTY, J., held the society was not a charity. There was no evidence
that only the widows of poor people were to be benefited. It was not
necessary to affirm the decision in *Re Clark's Trust*. It was enough to say that
the present society was not a charity, and the fact that one or more
honorary members agreed that their widows should not participate in its
benefits did not make it one.

The action stood over on the second point for the purpose of serving the
representatives of Sir R. R. Vyvyan, who disclaimed, and Sidney Clarke,
the representative of an ordinary member who was not the last survivor.

The latter was appointed to represent deceased ordinary members as a body. Counsel for Sidney Clarke, representing deceased ordinary members, claimed the fund by way of resulting trust. The Attorney-General contended that there was no *cestui que trust* ascertainable, and the fund went as *bona vacantia*.

CRITTY, J., said that on the death of the last annuitant, in 1892, the trusts affecting the funds, according to the rules, were exhausted. The claim of the representative of the last surviving member might be disposed of in a few words. The society was not a *tontine* society; there was no ground for saying that the fund belonged in equity to the last survivor. It was said he might have held a meeting under 10 Geo. 4, c. 56, s. 26, and voted the funds to himself. To this proposition, extravagant as it was, it was sufficient answer to say that he never attempted to do anything of the kind. The Attorney-General claimed the funds as *bona vacantia*. The Crown took the estate of an intestate bastard who had no wife or issue. Such a bastard had no next of kin. But in the case of the death intestate of a person born in wedlock, the Crown did not take merely because there was a difficulty in finding the next of kin; an inquiry was directed, and sometimes repeated, to ascertain who were the next of kin, and it was not until every reasonable step by advertisement and otherwise had been taken that the fund was ordered to be paid to the Crown. The mere fact that there would be great difficulty and expense in ascertaining the equitable owner of a fund was not itself ground for declaring the Crown entitled. The claim of the persons appointed to represent the deceased members generally was founded on the doctrine of resulting trust. Where a man provided a fund by way of trust for payment of a specified annuity to his widow during her life, and made no further declaration of trust affecting the fund, the beneficial interest in so much of the fund as was not required for payment of the annuity resulted to himself. The same doctrine would apply to the case of several persons providing such annuities for their widows. There would be an ultimate trust in their favour when the purposes of the trust had come to an end. Nor could any difference justly be made by reason of their raising such a fund in different but prescribed proportions among themselves. In the present case the doctrine of resulting trust applied. It was immaterial that no actual declaration of trust had been made by the trustees in pursuance of the rules, nor need one consider what could have been done if a meeting had been held under 10 Geo. 4, c. 56, s. 26. In spite of the extreme difficulty and expense of ascertaining the shares of the representatives of the several hundred members, his lordship was constrained to hold that the doctrine of resulting trust applied. He foresaw that probably the whole of the funds would be consumed in costs, but he had no means of cutting the Gordian knot. Declaration that in the events that had happened the funds were subject to a resulting trust in favour of the ordinary members of the society from time to time, or their respective representatives, in shares in proportion to the amounts contributed by each such ordinary member to the funds of the society. Amounts paid as fines or forfeitures and annuities received by widows not to be taken into account. All necessary inquiries.—COUNSEL, Robertson Macdonald; Farwell, Q.C., and W. D. Rawlins; Sir R. T. Reid, A.G., and Ingle Joyce; H. J. Treedy. SOLICITORS, Robbins, Billing, & Co., for Marrack, Nalder, & Hoeking, Truro; Hare & Co.

[Reported by G. ROWLAND ADYTON, Barrister-at-Law.]

Re VILLERS-WILKES, BOWER v. GOODMAN—Stirling, J., 21st February. WILL—CHARITABLE LEGACY—ALTERATION IN SCHEME OF THE CHARITY—CY-PRES.

A testatrix, by her will, dated the 22nd of June, 1883, gave all her property, real and personal, to trustees upon various trusts, and directed them to pay and divide the ultimate residue of her pure personality unto and equally between the General Dispensary, Birmingham, and the Blue Coat Charity School, Birmingham. She made a codicil, dated the 8th of September, 1891, whereby she gave a legacy payable out of her pure personality in the following terms:—"To the committee (of which Mr. Walter Newton Fisher, of 4, Waterloo-street, Birmingham, chartered accountant, is honorary secretary) for promoting the establishment of a bishop's see in or for Birmingham, and for the general purposes of such committee, whether confined to Birmingham alone or to any adjoining district, the sum of £2,000, and which legacy is in payment and satisfaction of a like sum which I promised to subscribe to the said committee." The testatrix died the next day. It appeared that at the date of the execution of the codicil, and at the death of the testatrix, there was in existence a committee for the establishing of a bishopric for Birmingham, of which Walter Newton Fisher was secretary, and in the parliamentary session of 1892 a private Bill for constituting a bishopric of Birmingham and including therein the archdeaconry of Coventry and parts of the archdeaconry of Worcester and of the diocese of Lichfield was introduced into the House of Lords, with the approval of the committee, and about £30,000 was either collected or promised in aid of that object. Subsequently, however, the Bill was, in consequence of opposition and with the approval of the committee, withdrawn; and, in pursuance of a resolution of the committee, the whole of the moneys actually subscribed had been (subject to a small deduction for expenses) returned to the subscribers. The committee, however, was still in existence for the general object of establishing the proposed bishopric, and there was evidence that the scheme was not abandoned. The testatrix had during her lifetime promised to subscribe the sum of £2,000 to the then existing committee. Under these circumstances the General Dispensary and Blue Coat School, as residuary legatees, claimed that the gift for the bishopric had wholly failed, and that the money was payable to them. They contended that the legacy was expressly given in satisfaction of the promise by the testatrix to subscribe to the particular scheme then on foot, and that if the testatrix had performed her promise and paid the

£2,000 in her lifetime the money would have been returned, and would have formed part of her residue. On the other hand, the committee, through their treasurer, claimed to have the money paid to them for the purposes of the establishment of a bishopric. This was an originating summons taken out by the trustees of the will to have it determined whether the said legacy of £2,000 to the committee had failed, and ought to be paid to the residuary legatees, or whether the money ought to be paid to the said committee, although its operations were for the time being suspended.

STIRLING, J., after stating the facts, delivered judgment as follows:—"I am of opinion that, when the facts of this case are clearly ascertained, the question is a very simple one. This legacy was given by the testatrix to the committee for promoting the establishment of a bishop's see in or for Birmingham, for the general purposes of such committee, whether confined to Birmingham alone or to any adjoining district." The committee was in existence at the date of the codicil and at the time of the testatrix's death, and it appears that she had promised a subscription of £2,000 to the bishopric fund previous to the execution by her of the codicil. Now the terms of the codicil shew clearly that the testatrix did not intend that the legacy should be applied exclusively to the specific scheme which the committee then had in view, for she evidently contemplated that it might be subject to alteration, and, consequently, despite the declaration in the will that the legacy was to be in satisfaction and payment of her promised subscription, it cannot be said that it (the legacy) was only to be confined in its application to the particular scheme. It seems to me, therefore, that it is a good charitable legacy for the purposes of establishing a bishop's see for Birmingham, and if this object fails, then the legacy must be applied *cy-pres*. The Attorney-General is here, and he makes no objection to the payment of the fund to the committee, and therefore I order that it be paid over to three members of the committee to be approved by the Attorney-General, who must give an undertaking to apply the money to the proper purposes, and in case of the failure of those purposes, to return it so that it may be applied *cy-pres*. The costs of all parties will come out of the legacy.—COUNSEL, Cyril Dodd, Q.C., and Theodore Dodd; Graham Hastings, Q.C., and Methold; Buckley, Q.C., Dibdin, and Tyrrell; O. Leigh Clare; Ingle Joyce. SOLICITORS, Tyrrell & Sons, for Clarke & Sons, Birmingham; Nash & Sons, for Mason & Sons, Birmingham; Bloxum, Smythe, & Ritchie.

[Reported by ARTHUR MORTON, Barrister-at-Law.]

LAW SOCIETIES.

LEGAL AND GENERAL LIFE ASSURANCE SOCIETY.

ANNUAL GENERAL MEETING.

The annual general meeting of the Legal and General Life Assurance Society was held on Tuesday, at the offices, 10, Fleet-street, Mr. WILLIAM WILLIAMS (the chairman) presiding.

The ACTUARY and MANAGER (Mr. E. Colquhoun) having read the notice convening the meeting,

The CHAIRMAN moved the adoption of the report and balance-sheet. He said that during the past year new assurances had been effected with the society under 607 policies for the sum of £1,018,437. The new premiums thereon had amounted to £40,719 3s. 8d., of which £7,588 13s. 7d. had been paid away for the reinsurance with other offices of £177,830, leaving £33,130 10s. 1d. as the new premiums on £840,607, the net risks retained by the society. In addition to these new premiums the society had also received the sum of £525 2s. in respect of assurances payable only in the event of death from fatal accident. The total net premium income had amounted to £225,278 8s. 4d., being an increase of £13,735 19s. 8d. upon that of 1893. The total net claims had amounted to £198,538 2s. 8d., caused by 84 deaths and one endowment policy matured, as against £162,988 8s. 6d. in 1893, caused by 74 deaths. This sum included £43,244 11s. 6d. paid as bonus additions, and in cases in which bonuses had not been previously surrendered for cash or reduction of premium the additions had amounted to the large average increase of 48 per cent. The total number of ordinary policies in force at the end of the year was 5,528, assuring, with bonus additions, £9,942,940. The total assets of the society had increased during the year by the sum of £50,894 0s. 8d., and amounted on the 31st of December to £2,881,958 18s. 3d. Omitting the amount invested in the purchase of reversionary interests, the remainder of the society's assets, productive and unproductive, had yielded an average rate of 4 5s. per cent. The above assets of the society included £1,801,687 invested on mortgages of real and personal property in the United Kingdom. Of these mortgages only £74,440 was now upon property in Ireland, and this sum was well secured and the interest was punctually paid. The other mortgages, which were on property in England or Wales, had been recently investigated by the directors, and the result of such investigation was satisfactory. The correctness of the accounts had been verified by the auditors. The affairs of the society were in a very satisfactory condition. It would be seen that the amount of new premiums was larger than the society had ever received, and that the actual net premiums under this head during the year had amounted to £33,130 10s. 1d., which was the largest sum for new premiums which the society had ever received. When he first became a director, now some twenty-one years ago, the board looked forward to a time in the distant future when they might probably, as they hoped, receive new premiums to the amount of £10,000 a year. That amount had more than trebled; for over £33,000 were received during last year in this respect. He thought this would be satisfactory to the shareholders as well as to the policyholders. The society was advancing steadily, not by leaps and

bounds, but steadily every year, and the amount of business was regularly increasing. The investments of the society were in a very satisfactory condition. The committee, who had had the whole of the securities before them, were perfectly satisfied. They were all well placed, and were producing regular interest. The only sum invested in Ireland was £71,410. It had been considerably reduced since the last general meeting. The amount was abundantly secured, and paid interest at the rate of 4½ per cent. It would probably be again considerably reduced during the next half year. But the board were perfectly indifferent with regard to the matter, because the amount invested in Ireland was thoroughly well secured.

Mr. Briggs seconded the motion. As a shareholder he thought the thanks of the meeting were due to the board and to the able actuary and manager for bringing the business of the society to this high state of perfection. It must be very satisfactory to every shareholder who read the report and to those insured in the society. He was glad to hear that the mortgages in Ireland were being reduced, but they still seemed to him to be rather high. Of course, however, the board were better acquainted with the facts of the securities than any shareholder could be. He had no doubt they would see their way to reducing the amount as soon as the opportunity arose.

The report and accounts were unanimously adopted.

The CHAIRMAN said that Mr. W. Brooks (Basingstoke), the Right Hon. Sir Jas. Parker Deane, Q.C., D.C.L., Mr. Jas. Dickinson, Q.C., Mr. E. H. Ellis, Mr. Richard Pennington, and Mr. Romer Williams retired by rotation from the board and offered themselves for re-election.

The retiring directors were re-elected *nom. con.*

The CHAIRMAN said the auditors, Mr. J. S. Folet, Mr. J. C. Leman, Mr. Kenyon C. S. Parker, and Mr. E. H. Busk, who retired at this meeting, offered themselves for re-election, and they were re-elected accordingly.

The CHAIRMAN moved that the remuneration of the auditors, £200, should be approved. He mentioned that the auditors did their work, which was of a very arduous nature, with great completeness. They took care to investigate every security and to see that all the vouchers were properly produced to them. They performed their duty very adequately. The remuneration was only £50 each, and it was not certainly by any means an extravagant amount.

Mr. Briggs seconded the motion, which was agreed to, and the meeting terminated.

CHESTER AND NORTH WALES INCORPORATED LAW SOCIETY.

The fourteenth annual meeting of this society was held at the Town Hall, Chester, on Friday, the 22nd of February, 1895, Mr. H. T. Brown, president, in the chair.

The prize for articulated clerks founded by Mr. John Allington Hughes, when president of the society in 1891-2, was presented by the president to Mr. G. D. Hugh-Jones, who served his articles with Mr. L. L. Hugh-Jones, of Wrexham, and who was placed in the 3rd class at the honours examination held in November, 1894.

The report of the committee and the treasurer's accounts for the past year were received and adopted.

The following officers of the society were unanimously elected for the ensuing year:—Mr. F. Cooke, of Crewe, president; Mr. H. J. Birch, of Chester, vice-president; Mr. F. E. Roberts, of Chester, hon. treasurer; and Mr. R. Farmer, of Chester, hon. secretary.

The following gentlemen are the committee for the year:—Messrs. J. Gamon, G. H. Rogerson, N. A. E. Way, and H. T. Brown, all of Chester; J. H. Cooke, of Winsford; J. Davies, of Denbigh; C. H. Pedley, of Crewe; L. L. Hugh-Jones, of Wrexham; P. Hignett, of Colwyn Bay.

Messrs. F. W. Sharpe and C. P. Douglas, both of Chester, were re-elected auditors.

A resolution protesting against the appointment of barristers to act as solicitors to public departments was submitted to the meeting and carried unanimously.

The annual dinner was held at the Queen Hotel, Chester, after the meeting.

The following are extracts from the report of the committee:—

Members.—The society now numbers 127 members. One member—Mr. W. R. Williams, of Rhyl—has died, and 6 members have resigned during the year. Twelve new members have been elected since the last annual meeting. The committee record with pleasure that Mr. W. H. Churton now holds office as Mayor of the City of Chester.

Land Transfer Bill, 1894.—This Bill, which was similar to the Bill of 1893, was introduced into the House of Lords on the 12th of April, 1894, read a second time on the 24th of April, and referred to committee. On the 1st of May the Incorporated Law Society (U.K.) held a conference with the country law societies, at which Mr. John Gamon attended on behalf of this society. This conference was adjourned to the 9th of May, when the president and secretary, at the request of the committee, attended. At the adjourned conference, when nearly every law society was represented, or had expressed its views in writing, it was resolved that the Bill ought to be strenuously opposed. The committee communicated with one or more solicitors in each Parliamentary Division within the district of the society, requesting them to approach the member for the division upon the subject, and deputations from the committee waited upon several members of Parliament, with favourable results. Owing to pressure of other business the Bill was not further proceeded with, but will doubtless be revived at the first opportunity. In connection with this

subject the committee desire to draw special attention to the following extract taken from the address delivered by Mr. John Hunter, president of the Incorporated Law Society (U.K.), at the annual provincial meeting in October last:—"Our opposition to the Land Transfer Bills for the last two years has only taken the form of asking for inquiry before legislation.

If the Government will not concede such an inquiry, in my opinion it might be worth while for our society to undertake the matter ourselves, and to draft a scheme which should give purchasers of land the greatest amount of security with the least cost of time and money, whilst leaving to owners the power they all desire, to make any disposition they can now make of the land or the value of it, they having been deprived of the power of tying up the land itself by the Acts of 1882. I believe the result would be a system of conveyancing which would outbid anything a Government Office could offer in simplicity and expedition, and undersell it in cost. Lawyers who have to live by their profession will do their best to meet their clients' wishes, and if the clients want facility for selling, we can supply the means of selling and conveying at a minimum of cost, if Parliament will pass the Acts necessary to remove the difficulties which now exist."

Incorporated Law Society (U.K.).—Those only who have the opportunity of seeing something of the inner working of this great society can form an estimate of the amount of work continuously undertaken and dealt with in the interests of our profession. In the opinion of the committee, the persevering and vigorous opposition made by that society to the various Land Transfer Bills taken alone renders it the duty of every practising solicitor to become a member of it. The committee record with pleasure that your president (Mr. H. T. Brown) was, in October last, elected an extraordinary member of the council, so that this society is now directly represented on the governing body.

SHEFFIELD DISTRICT INCORPORATED LAW SOCIETY.

The following are extracts from the report of the committee:—

Members.—The number of members is now 160.

The Land Transfer Bill.—This Bill was introduced into the House of Lords by the Lord Chancellor on the 12th of April, 1894, read a second time a fortnight later, and then referred to committee, and subsequently to the standing committee. Owing to the objections of bankers and others, the provision as to the certificate of title not being a title deed, and the consequent inability to create an equitable mortgage by deposit of it, was modified. Subject to this, the Bill was the same as last year's, which was strongly objected to by your committee (see last report, pp. 12-15).

Your committee appointed an emergency committee to act in opposition to the Bill, and a circular was prepared, addressed to the members of Parliament representing constituencies within the district, to be sent out when the position of the Bill required it. The Bill was considered at the meeting of the Associated Provincial Law Societies, in London, on the 15th of June, and delegates from those societies met the Council of the Incorporated Law Society on the matter on several occasions, but further action was rendered unnecessary by the Bill being dropped. A conference of Yorkshire solicitors, with Yorkshire members of Parliament, on the subject of compulsory registration of titles, was held at York, on the 26th of September.

Your society was not represented there, as the committee did not consider that a sufficient number of M.P.'s could be got together during the recess; but they contributed £2 2s. towards the expenses of the conference. Resolutions were then passed, with some of which your committee were not in accord. At the annual provincial meeting of the Incorporated Law Society, at Bristol, in October last, the president, Mr. John Hunter, dealt very exhaustively with the subject of Land Transfer and Registration of Title, and suggested that, unless a Government inquiry were instituted, the society should itself take up the matter, "and draft a scheme which should give to purchasers of land the greatest amount of security with the least cost of time and money, while leaving to owners the power they all desire to make any disposition they can now make of the land or the value of it."

The meeting gave to this suggestion its hearty and unanimous support, and passed a resolution requesting the Council of the Incorporated Law Society to prepare such a scheme. It is understood that the council are now formulating proposals for simplifying the law as to real property, and facilitating and cheapening conveyancing transactions, without recourse to public registration of title, and your committee have rendered some help in the matter. Mr. Wolstenholme, the conveyancing barrister, has made suggestions to the effect that dispositions of property should be confined to transfer of the whole fee simple, or of a rent charge in fee, or a term of years absolute, and that every other estate should be in the nature of an equity or trust only. His suggestions, which appeared in the *Solicitors' Journal*, evoked numerous criticisms, also in that paper, though, no doubt, if carried into effect, they would enormously simplify the title deeds to property. It is questionable how far they would prove practically workable, and it would certainly seem that they would greatly facilitate fraud, unless attended by numerous safeguards, such as caveats, which would somewhat mar their inherent simplicity. Some of your committee think that it would then be necessary to have two sets of titles in cases where the property was held by trustees in trust. Subject to certain needed reforms, such as the creation of a real representative and the abolition of some of the feudal technicalities still existing in the law of real property, the present system is probably as good as anything that can be devised, and certainly as expeditious. As for cheapness, it is not going too far to say that the legal charges, in the large majority of cases, and particularly in large transactions, are not much greater than the brokerage on mercantile transactions of equal amount, although the transaction carried out by the solicitor is a much more difficult and troublesome one than that conducted by the broker.

Public Trustee Bill.—Colonel Howard Vincent, M.P., again introduced

his Bill for the appointment of a public trustee last session. The secretary wrote to Mr. Vincent, pointing out that the committee thought he had made a mistake in so doing, and forwarding him a print of the society's objections to the Bill of 1891. The Bill was dropped.

Mortgagee's solicitor's costs.—A question was submitted to the committee by one of the members, as to whether the costs of a notice calling in a mortgage, given by the mortgagee's solicitor on his behalf, should be borne by the mortgagor or by the mortgagee. The committee were unanimously of opinion that the taxing master ought to allow the costs of such a notice to be added to the mortgagee's charges.

Stamp duty on apportioned rent-charges and ground-rents.—An important question has recently been raised on this subject, owing to a notice having been issued by the Inland Revenue Commissioners, on the 17th of September last, to the effect that in all cases where land is sold subject to a rent-charge, and the purchaser resells a portion of such land in consideration of a sum of money and a rent-charge, which may or may not be in strict proportion to the rent-charge originally created, then *ad valorem* duty shall be paid on such rent-charge as well as on the consideration money; the notice added that the commissioners were willing to allow all conveyances which had been insufficiently stamped in this way to be stamped without a penalty during the three months next ensuing. Several sets of correspondence between different firms of solicitors and the commissioners have been reported in the *Law Times*, and attention is particularly called to that in the *Law Times* of the 17th of November last, with Messrs. Watson & Dendy, solicitors. Several important questions were here asked and replied to. The commissioners gave their opinion that—(1) The duty is not payable where the whole of the property is sold subject to the whole of the rent-charge; (2) the duty is not payable on a conveyance of a previously apportioned rent-charge; (3) the notice of the 17th of September is intended to apply to ground-rents as well as rent-charges. A deputation, consisting of the president of the Incorporated Law Society (U.K.) and several representatives of provincial law societies, waited on the commissioners on the 6th of November last for the purpose of putting before them their views and intentions in the matter, when the commissioners said they would give the matter careful consideration. The subject was again brought before your committee on the 31st of January, 1895, and it was resolved to let it stand over, and the secretary would in the meantime correspond with the council in London.

Companies' liquidation.—A striking instance of the tendency of the Board of Trade and other Government departments to extend themselves in various directions is afforded by the practice of the official receiver being appointed the permanent liquidator in the winding up of many large companies, and whether or not so appointed, of often realizing the bulk of the assets as interim liquidator before the appointment of a permanent one. This course threw more work than was contemplated on the department, and necessitated an application to the Lords of the Treasury for an increased vote for expenses. To this Sir John Hibbert replied that, in the opinion of the Lords of the Treasury, the official receiver should be instructed not to act as permanent liquidator in any case, unless the parties interested were unable to find a competent representative of their interests elsewhere. It is very doubtful whether the creditor has at all improved his position by this spread of officialism, and the Council of the Incorporated Law Society has taken up this subject with vigour, and has laid before the Lord Chancellor proposals based on the letter of Sir John Hibbert, which it is hoped may produce some good effect.

THE UNION SOCIETY OF LONDON.

The society met at the Inner Temple Lecture Hall on Wednesday evening, the 27th ult., at 8 o'clock, Mr. W. R. Willson, president, in the chair. After the reading of the minutes and the disposal of private business, Mr. Willson brought forward the motion on the agenda paper—viz.: "That there has been a tendency to unduly consult the interests of the so-called working classes in recent politics and legislation, and that such tendency is mischievous and should be checked." Speakers: for the motion, Messrs. Willson, Ostor, and Tudor Lay; against the motion, Messrs. Bruce, Haythorne, Reed, Jenks, and Hirst. The motion was carried.

LAW STUDENTS' JOURNAL.

INCORPORATED LAW SOCIETY.

PRELIMINARY EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Preliminary Examination held on the 6th and 7th of February, 1895:—

Adams, Stanley Alfred	Buchanan, Alexander
Allingham, Frederick Alexander	Budd, William George
Moore	Bush, Lester James
Atkinson, Reginald Clegg	Butcher, Theodore George
Bacon, Walter Hugh	Caldwell, Tom Charles
Barr, Alexander David St. Clair	Chadwick, Richard Stanley
Battahill, John Harrington	Chatterton, Hugh Frederick Sidney
Beard, Herbert William	Ching, Sydney James
Bennett, Charles Alan	Cowan, Thomas
Bevan, William	Cran, Cosmo James Rose
Bishop, Tom Bennett	Cutler, Charles Richard
Board, William John	Daw, Herbert William
Bompas, Alan Chantrey	Diplock, William John Hubert
Boulton, Walter Mountford	Ellaby, Francis Nobury
Bowen, David	Evans, Frank David
Brydone, Patrick	Everett, William John

Ewing, James Archibald
Fenton, James Marriott
Garle, Henry Ernest
Garner, James Brooke
Goldie, Robert Henry
Guillet, William Percy
Hall, George Thomas
Hawkins, Cecil John
Heath, Richard Steele
Hodder, Harley Rayner
Hodgson, Frederic Charles
Hodgkinson, Robert Frank Byron
Im Thurn, Frederic Charles Mackenzie
Isherwood, John Bradshaw
Johns, James Gray
Jones, William Stephen
Lamaison, Leonard William Henry
Larkin, Edmund
Lefroy, Charles Jeffrey Alexander
Lewis, John Alexander Kinglake
Clayton
Lewthwaite, Charles
Limbirt, Norman Arthur
Lister, Henry Reid
Marshall, John Stead Stanley
Martin, Harry Seymour Dersley
Marryn, Gerald Stephen
Mawson, Harry Antony Plevna
Menzies, William Henry Wood
Modlin, Henry Frederick Jonathan
Morris, William Pilgrim
Morton, William Henry
Nadin, Robert Armstrong Reay
Neville, Edward Farington
Newington, Norman George
Newton, Charles Edward
Newton, John Deacon
Nicholson, Joseph Arthur
Ord, William Henry

Paddock, George Leslie Harper
Parfit, Aldhelm
Parker, Edwin
Parkes, William Taylor
Perkins, James Wixstead
Platts, William Henry John
Purkis, Charles Sydney
Purkis, Harry Wakeham
Rawson, John Busfield
Ray, Cecil
Rigden, William Percy
Ruddle, Harold Selby
Ruddock, George
Rump, Frederic
Scott, George Reginald
Sheldon, Ernest Alfred
Sidney, Lawrence Marlow
Simpson, Eustace Edward
Smart, James Pile
Smith, Frank Melldew
Smittton, Herbert Allan
Snell, Robert Charles
Somerville, Robert Baxter
Spafford, Frederic Christian
Stokes, Alexander Hudleston
Stratford, Harold
Talbot, Samuel Thomas
Tippetts, Percy William Berriman
Turner, Wilfred
Vernon, Albert John
Walker, Harold Felvus
Walker, William
Walter, George Andrew
Weston, Percival Aaron Albert
Whyley, Mark Edward
Wight, Reginald
Williams, Frederick George
Williams, John Jones
Wooler, Horace Westgarthe

LAW STUDENTS' SOCIETIES.

LAW STUDENTS' DEBATING SOCIETY.—Feb. 19.—Mr. Rupert Blagden in the chair.—The subject for debate was: "That the case of *Re Glory Paper Mills Co.* (1894, 3 Ch. 473) was wrongly decided." Mr. Berryman opened and Mr. Nimmo seconded in the affirmative; Mr. Seager Berry opened and Mr. Jolly seconded in the negative. The following members also spoke:—Messrs. Anderson and Neville Tebbutt in the affirmative; Messrs. Dickson, Trevor Roberts, and H. Harcourt in the negative. Mr. Berryman replied. The chairman summed up, and the motion was lost by 6 votes.

Feb. 26.—Mr. Herbert Smith in the chair.—The subject for debate was: "That unrestricted Free Trade has been prejudicial to the commercial interests of this country." Mr. J. Duncan opened in the affirmative. Mr. Neville Tebbutt opened in the negative. The following members also spoke:—Mr. H. Harcourt in the affirmative; and Messrs. A. E. Clarke, Trevor Roberts, and Rupert Blagden in the negative. Mr. Duncan replied. The motion was lost by three votes. The subject for debate at the next meeting of the society, on Tuesday, March 5, is: "That a local solicitor can successfully maintain an action for libel against the parties responsible for the editing and circulation of a local journal, in which reports of cases—in the county court of the district—where the solicitor has been unsuccessful are, together with the solicitor's name, persistently inserted, while notices or reports of cases in which the solicitor has succeeded are persistently omitted, or, if inserted, make no mention of the solicitor's name" (see *Roberts v. Moore*, *Law Times*, January 26, 1895).

LEGAL NEWS.

APPOINTMENTS.

Mr. GARSON HENRY LOVEWELL BLAKE, solicitor, of Great Yarmouth, has been appointed a Commissioner for Oaths. Mr. Blake was admitted in November, 1888.

CHANGES IN PARTNERSHIPS.

DISSOLUTIONS.

WILLIAM ERNEST HEMPSON will continue to practise at 35, King-street, under the style of Hempeons, and not Hempson, as we printed on the 23rd of February.

GENERAL.

The Lord Chancellor will be the first witness examined by the Select Committee on Trusts Administration.

At a meeting of the Committee of Selection on the 26th of February, Sir R. Mowbray presiding, it was intimated that the County Council Tower Bridge Southern Approach Bill, upon which the disputed question of betterment arises, will probably be referred to a joint committee of both Houses of Parliament this session.

Mr. Justice Romer is announced to preside at the 9th annual meeting of the Selden Society on Friday next, when the new council and other officers will be appointed. Foreign and colonial members who have not received the society's latest volume are asked to communicate with Mr. F. K. Munton, 95a, Queen Victoria-street, honorary secretary *pro tem*.

On the 26th of February Mr. Reginald Brown asked the Newmarket Bench to state a case for the higher courts in the matter of the Anti-Gambling League prosecution of the Jockey Club. The chairman stated that the bench had decided not to state a case. The other summonses against the stewards and bookmakers having lapsed, the bench decided that fresh summonses must be applied for.

A return of the number of actions for debt or damages tried in the Mayor's Court at Guildhall last year shows that 103 were tried by the Recorder, 109 by the Common Serjeant, and 191 by the Assistant Judge, making 403 in all. Of these 290 resulted in a verdict for the plaintiff, 63 for the defendant, in 29 a nonsuit was entered, and in 21 the jury were unable to agree. The highest amount claimed was £4,000.

In the House of Commons on the 22nd of February Mr. Bryce, in answer to Mr. Barrow, said that the committee on the Companies Acts had been giving most assiduous attention to the difficult questions referred to them, and had made so much progress that he trusted they might be in a position to report within the next few weeks, and he continued to entertain the hope that it might be possible to legislate on the subject in the present session.

In the House of Commons on the 21st of February Mr. Hanbury asked the Secretary of State for War whether, with a view to reducing the expenses of prisoners on trial before courts-martial, a solicitor would in future be allowed the same right of audience as a barrister and according to the same rules of procedure. Mr. Campbell-Bannerman said that this had been provided for in Rule of Procedure 92 B, which was promulgated with the Army Order 105 of July last.

The council of the Shorthand Society have decided to devote a great portion of the present session to the consideration of the position of shorthand clerks. The desire of the society is to improve the status of efficient writers, and, thereby, also to give an impetus to the less efficient to perfect themselves. The subject will be considered in the shape of papers and discussion, and all interested in the art, both employers and employed, are invited to attend a meeting of the society on Tuesday, the 5th of March, at 8 p.m., at Anderson's Hotel, Fleet-street, where a paper will be read on the above subject by the honorary secretary of the society. Amongst the prominent vice-presidents of the society is Lord George Hamilton, while Sir George Kekewich, the Secretary of the Education Department, is an honorary fellow.

A "Country Solicitor" writing to the *Times* of the 22nd of February says: "A Chancery suit to administer a testator's estate has just been wound up. The estate, which consisted of a few acres of land and three houses, realized about £1,900. The costs of administering the estate under an order of the court were between £670 and £700, including executorship expenses, and the time occupied has been five years. The proceedings were in chambers, there being no question as to the construction of the will and not a single point of law to decide. The funeral expenses and debts together did not amount to £40. The delay and expense in these administration actions is almost entirely owing to the scandalous amount of red-tapism in the proceedings conducted by the chief clerks in chambers and the number of adjournments."

The gross value, says the *St. James's Gazette*, has been entered at £120,056 4s. 3d. (the net or actual value upon which duty is paid not being stated) of the personal estate of Mr. Joshua Whitehead Butterworth, of 45, Russell-road, Kensington, and of 7, Fleet-street, law publisher, a member of the Court of the Stationers' Company, who died on the 8th of January last, aged seventy-three years, a bachelor, and of whose will of the 2nd of November, 1888, with a codicil made the 5th of January last, the executors are Mr. Edmund Waller, of 33, St. Mary Abbott's-terrace, Kensington, and Mr. Alfred Edward James, of 23, Ely-place, solicitor. Advertisements of law books published by Butterworths, of Fleet-street, are to be found in London newspapers of a century ago. The late Mr. Butterworth bequeathed to his manager, William O. Greenwood, £1,000, and he ordered that the business carried on by him at No. 7, Fleet-street, and the goodwill and copyrights, should be sold and disposed of. He left the residue of his property in trust for such person or persons as would have been entitled if he had died intestate.

In the Birmingham Police Court, on the 26th of February, several firms of tea dealers were summoned by order of the Watch Committee for keeping lotteries by means of the bond system of tea dealing. The first case was that of Erasmus Jensen, now residing in Madeira, who is the owner of a shop in the Gothic-arcade, Birmingham. According to the bills issued by Jensen, the bond business was started in May, 1893, and during the first week 7lbs. were sold, whereas, according to more recent returns, the weekly sale was now 33,000lbs. After purchasing tea, customers were given a bond for £10, which was to be exchanged for a Bank of England draft when a certain number of boxes had been disposed of. Each week, however, the numbers of the bonds were put into a box and certain of them were withdrawn, and the holders of the bonds bearing these numbers were paid £5 each. The prosecution maintained that that constituted a lottery. Jensen now alleged that he had dropped the ballot and apportioned the £5 notes amongst his customers on a plan of his own. The prosecution said that under the existing plan the lottery was still illegal. Evidence having been given, the defendant was fined £25 and costs, or in default three months' imprisonment. The defendant's manager was also

fined £5 and costs. The other defendants having promised to discontinue the system, the summonses against them were withdrawn.

In the House of Commons on the 26th of February Sir A. Rolit moved the following new standing order:—"133a. Where a Chamber of Commerce or Shipping, sufficiently representing the trade or commerce in any district to which any Bill relates, petition against the Bill, alleging that such trade or commerce will be injuriously affected by the provisions contained therein, it shall be competent to the referees on private Bills, if they think fit, to admit the petitioners to be heard on such allegations against the Bill or any part thereof." Mr. R. G. Webster suggested that if the order was accepted some deposit should be required from the Chambers of Commerce or Shipping before they were allowed to proceed against all these Bills. Mr. Hanbury moved, as an amendment, that chambers of agriculture be also included in the standing order. The amendment was agreed to. Mr. Howell suggested that the Shipping Federation should be included in the standing order, inasmuch as many of the Bills referred to affected questions of labour as well as of capital. Mr. T. G. Bowles objected to this suggestion, on the ground that the Shipping Federation, being composed of private persons combined for the accomplishment of private ends, occupied quite a different position from chambers of commerce, shipping, and agriculture. The motion for the new standing order was then agreed to.

At Lincoln on Saturday, the 23rd of February, Mr. Justice Hawkins commented on the present circuit system. A case of considerable length—*Pennell & Sons v. Lincoln Brick Co.*—as to alleged damage to shrubs, had been commenced late on Friday evening, when the court sat until 8.30 p.m. On Saturday Mr. Buszard, Q.C., and Mr. Harris, Q.C., who led for the parties, agreed the case could not be finished that day. Mr. Justice Hawkins said he was willing, if the parties wished, to sit till five that day and then adjourn the case until he could fix another day to come back to Lincoln and finish it. But Saturday being commission day at Derby, and Monday the first day of business, he must leave Lincoln that night, as it would not be fair on the jurors and witnesses summoned there to be kept waiting. The arrangements for circuit were very inconvenient, the days were fixed beforehand by Order in Council, and the consequence was a lot of time was often given to towns where there was very little work. On this circuit three days had been fixed to Aylesbury, and there was one short day's work. At Leicester there had been two days to spare, and he had gone back to Bedford to finish trying a case there. At Northampton there was a lot too much time. Mr. Buszard, Q.C., said he thought the judge going the assize ought to have the power of fixing the days. Mr. Justice Hawkins: Yes; the later days, after the circuit has begun. Counsel then agreed that, as it would be inconvenient to try the case piecemeal, and it could not be finished that day, it should be postponed until next assizes. Mr. Harris, Q.C., hoped the Lord Chancellor would be informed that there would be a long cause for trial at Lincoln in the summer, and would fix the time there accordingly.

The Corporation, says the *Times* of the 26th of February, have recently been in communication with Mr. Commissioner Kerr, the judge of the City of London Court, on the increase of business in that court. Last December the judge wrote to them stating that he had had no reply to a letter which he had addressed to them a year previously; that, in the meantime, the business of the court continued to increase so much that he was unable to undertake it, and that he must therefore either resign his office or obtain assistance according to his arrangement with the Common Council in 1889. That letter was referred to the Officers and Clerks Committee, who pointed out that the judge had been recommended a pension of £2,700 per annum whenever he should retire from office. That recommendation, though adopted by a majority of votes, was subsequently invalidated because it did not secure the support of two-thirds of the members voting, and the result was that Mr. Commissioner Kerr would, on retirement, be only entitled to receive an allowance as pension based on the terms and scale applicable to the judges of the Supreme Court. In regard to the necessity for his obtaining further assistance, the judge annually appointed a deputy to sit only for sixty days in each year, and any need for additional help must be met by the appointment, with the approval of the Lord Chancellor and the Corporation, of an assistant judge. The judge therefore desired to appoint an assistant judge and also a deputy judge, as heretofore, at his own expense. He consequently asked the Corporation's consent to his appointment of Mr. Julian Robins, who had for some three years acted as his deputy, as assistant judge, and to his nomination of a deputy for the usual period of sixty days if need be. The Corporation have given their consent to this arrangement, subject to the Lord Chancellor's approval of Mr. Robins' appointment, on the understanding that it does not involve them in any pecuniary responsibility whatever.

In the House of Commons on the 22nd of February Mr. Boulnois asked the Chancellor of the Exchequer whether, with the view of facilitating payments before grant of probate (or administration) for the purpose of defraying estate duty, he would arrange that the Inland Revenue authorities should receive the papers necessary for probate (or administration), and, after approval of them, issue a memorandum that the grant to A. B. awaited only the payment within (say) a month of £ estate duty; and, should the grant after all not be made as proposed, return in due course to the payer thereof any duty received. The Chancellor of the Exchequer said that this could not be done without legislation, even if it were desirable from the point of view either of the taxpayer or of the revenue. But, in his judgment, it would be very undesirable for the taxpayer, as well as for the Exchequer. The grant of probate would in many cases be greatly delayed, while the collection of the revenue would be retarded. Mr. Hanbury (for Mr. T. G. Bowles) asked the Chancellor of the Exchequer

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